

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 W. Washington
Conference Room 308
Phoenix, Arizona 85007
Wednesday, May 19, 2010 – 1:00 p.m.

Present:	Brian Delfs	Chairman
	Marcia Weeks	Vice Chairman
	John A. McCarthy, Jr.	Member
	David Parker	Member
	Kathleen Oster	Member
	Laura McGrory	Director
	Andrew Wade	Chief Legal Counsel
	Darin Perkins	Director, ADOSH
	Randall Maruca	Director, Labor Department
	Renee Pastor	Self Insurance Manager
	Gary Norem	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Delfs convened the Commission meeting at 1:00 p.m. noting a quorum present. Also present were Teresa Yi of Snell & Wilmer and Andrew Stafford of Performance Safety, LLC.

Approval of Minutes of May 13, 2010 Meeting

The Commission unanimously approved the Minutes of May 13, 2010 on motion of Mr. McCarthy, second of Ms. Weeks.

Discussion & Action of Proposed OSHA Citations and Penalties

Rafael Tover Roofing Corp. 134 E. 25 th Street Tucson, AZ 85713	Planned Yrs/Business – 13 Empl. Cov. by Insp. – 9
Site Location: 2121 E. Broadway Blvd., Tucson, AZ 85716	
Inspection #: A9339/314142555	
Insp. Date: 01/14/10	

SERIOUS – Citation 1, item 1 – Fall protection was not provided to any of the eight employees and two management personnel working on the roof 25' high (1926.501(b)(10)).
(No inspection history in the past three years).

Div. Proposal - \$1,500.00	Formula Amt. - \$1,500.00
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SERIOUS – Citation 1, item 2 – The safety monitor was performing additional duties such as tending the hot tar line (1926.502(h)(1)(v)).

Div. Proposal - \$1,500.00	Formula Amt. - \$1,500.00
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SERIOUS – Citation 1, item 3 – Fall protection training was inadequate in that employees were working on a roof 57' wide, 354' long and 24' above ground and were not aware of the requirements when using Safety Monitors (1926.503(a)(1)).

Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00
TOTAL PENALTY - \$4,500.00 TOTAL FORMULA AMT. - \$4,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$4,500.00 on motion of Mr. McCarthy, second of Mr. Parker.

Ponderosa Fire District Complaint
P. O. Box 16359 Yrs/Business – 6
Bellemont, AZ 86015 Empl. Cov. by Insp. – 19
Site Location: 11851 Shadow Mountain Drive, Bellemont, AZ 86015
Inspection #: Q8339/314142571
Insp. Date: 01/14/10

SERIOUS – Citation 1, item 1 – Volunteer fire fighters did not receive medical evaluations before they wore SCBA respirators (1910.134(e)(1)).
(No inspection history in the past three years).

Div. Proposal - \$750.00 Formula Amt. - \$750.00

SERIOUS – Citation 1, item 2 – A BBP program was not developed or implemented to eliminate or minimize employee exposure to blood or other potentially infectious materials (1910.1030(c)(1)(i)).

Div. Proposal - \$750.00 Formula Amt. - \$750.00

SERIOUS – Citation 1, item 3 – The employer did not provide hepatitis B vaccines for the first responder fire fighters who had occupational exposures to blood or other infectious materials (1910.1030(f)(2)(i)).

Div. Proposal - \$ 750.00 Formula Amt. - \$ 750.00
TOTAL PENALTY - \$2,250.00 TOTAL FORMULA AMT. - \$2,250.00

Brian Delfs recused himself from consideration of this agenda item. Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission approved issuing the citations and assessed the recommended penalty of \$2,250.00 on motion of Ms. Weeks, second of Mr. Parker.

Sojourner Center, Hope Campus Complaint
P.O. Box 20156 Yrs/Business – 5
Phoenix, AZ 85036 Empl. Cov. by Insp. – 29
Site Location: 13th Street & McDowell Road, Phoenix, AZ 85006
Inspection #: L3419/314424482
Insp. Date: 04/20/10

SERIOUS – Citation 1, item 1 – Food handling gloves not approved for medical use were provided for employee use when there was occupational exposure (1910.1030(d)(3)(i)).

(No inspection history in the past three years).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

SERIOUS – Citation 1, item 2 – Initial and annual employee training under the bloodborne pathogens standard did not include additional tasks or procedures that affected the employee's occupational exposure (i.e. the removal of an IV needle from a participant to prevent infection (1910.1030(g)(2)(v)).

Div. Proposal - \$1,750.00

Formula Amt. - \$1,750.00

TOTAL PENALTY - \$3,500.00

TOTAL FORMULA AMT. - \$3,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,500.00 on motion of Mr. Parker, second of Ms. Oster.

Randy Orr dba Sunrise Fabrication
24 W. Laguna
Tucson, AZ 85705

Planned
Yrs/Business – 30
Empl. Cov. by Insp. – 3

Site Location: 24 W. Laguna, Tucson, AZ 85705
Inspection #: N5645/314384694
Insp. Date: 04/07/10

GROUPED SERIOUS – The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness.

Citation 1, item 1a – The interior surfaces of the spray booth were not smooth and continuous (1910.107(b)(2).

Citation 1, item 1b - Electrical wiring and equipment located within the spraying area was not Class I, Division I (1910.107(c)(6).

Citation 1, item 1c - Lighting inside the booth was provided by three portable lamps that were not approved for Class I, Division I areas (1910.107(c)(8).

Citation 1, item 1d - The paint booth was not equipped with mechanical ventilation (1910.107(d)(2).

Citation 1, item 1e - A portable fire extinguisher was not provided within 50' of the paint booth (1910.107(f)(4).

(No inspection history in the past three years).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1, item 2 – A table saw used for ripping redwood slats was not guarded (1910.213(c)(1).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$1,500.00

TOTAL FORMULA AMT. - \$1,500.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion and inspection of photographs of these violations, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$14,000.00 on motion of Mr. McCarthy, second of Ms. Weeks.

Discussion & Action of Proposed Youth Employment Penalty

CL 0910-0023 Alpine Mountain Homes, Inc. – Randall Maruca advised that this involved a 17 year old employed as a laborer/carpenter's helper. While operating a table saw, the youth's left thumb was amputated below the knuckle. The thumb was surgically reattached and the youth has returned to work. Employer has acknowledged violation and has instituted procedures that prohibit persons under 18 from operating table saw and other power tools. Following discussion, the Commission unanimously assessed the recommended penalty of \$1,000.00 on motion of Mr. McCarthy, second of Mr. Parker. The Commission and staff discussed the statutory penalty limit.

Discussion & Action of Applications for New Employment Agency Licenses

Arizona Model and Actor Management, L.L.C.
Henry & Harper Professional Employee Relations, L.L.C.
Identity IQ, L.L.C.

Mr. Maruca advised that the above listed applicants have been investigated by the Labor Department as required by the Revised Statutes and Rules governing private employment agencies. The Employment Advisory Council has recommended approval of these licenses. Following discussion, the Commission unanimously approved the applications on motion of Mr. Parker, second of Ms. Weeks.

Discussion & Action of Requests for Renewal of Self Insurance Authority

Costco Wholesale Corporation - Renee Pastor presented staff's renewal report along with current Moody's, Fitch, and Dunn and Bradstreet credit ratings. She responded to questions from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the company's continued profitability and growing size with total worldwide assets of just over \$21.9 billion, a clean audit report and acceptable credit ratings. Following discussion, the Commission unanimously approved continuance of self insurance authority on motion of Ms. Weeks, second of Mr. Parker.

Kiewit Corporation - Renee Pastor presented staff's renewal report along with current Moody's, Fitch and Dunn and Bradstreet credit ratings. She responded to questions from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority due to the company's strong financial position with assets of just over \$4.8 billion and consistent record of profitability. Following discussion, the Commission unanimously granted continuance of self insurance authority on motion of Ms. Weeks, second of Mr. McCarthy.

Marriott International, Inc. - Renee Pastor presented staff's renewal report along with current Moody's, Fitch, and Dunn and Bradstreet credit ratings. She responded to questions

from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority due to the solid financial condition of the Company with worldwide assets of just over \$8.9 billion, record of profitability, a clean audit report and an acceptable credit rating. Following discussion, the Commission unanimously approved renewal of self insurance authority on motion of Mr. Parker, second of Ms. Weeks.

Pinnacle West Capital Corporation - Renee Pastor presented staff's renewal report along with current Moody's, Standard and Poor's, Fitch, and Dunn and Bradstreet credit ratings. She responded to questions from the Commissioners. Ms. Pastor advised that Administration is recommending renewal of workers' compensation self-insurance authority based on the Company's financial stability and profitability, large size with assets of just over 11.8 billion, a clean audit report and an acceptable credit rating. Following discussion, the Commission unanimously granted continuance of self insurance authority on motion of Mr. Parker, second of Mr. McCarthy.

Discussion &/or Action regarding Budget and Operations of the Industrial Commission

Ms. McGrory advised that there was nothing new to report.

Discussion &/or Action regarding Commission's Participation in Western Association of Workers' Compensation Board

Ms. McGrory advised that Mr. Lujano was the representative from the Industrial Commission and that the Commission needs to designate another representative if they wish to continue the membership in the Association. It was discussed that membership was beneficial in exchanging information, maintaining contacts and networking with the agency's counterparts in the western states. Mr. Parker stated that he would be willing to serve. The Commission unanimously designated Mr. Parker as the agency's representative in the Association on motion of Mr. McCarthy, second of Ms. Weeks.

Discussion &/or Action regarding Legislation

Ms. McGrory advised that there was nothing new to report.

Discussion &/or Action regarding Industrial Commission of Arizona, for Itself and as Trustee for the Special Fund of the Industrial Commission of Arizona; and the Special Fund of the Industrial Commission of Arizona, Petitioners, v. Dean Martin, Arizona State Treasurer, in his official capacity; Janice K. Brewer, Governor of the State of Arizona, in her official capacity, Respondents. The Commission may move into Executive Session under A.R.S. §§38-431.03(A)(3) and (A)(4) for Discussion and Consultation with the Attorneys of the Public Body regarding Pending Litigation or Settlement Discussions in order to resolve Litigation. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session

Mr. Wade advised that there was nothing new to report

Announcements and Scheduling of Future Meetings and Public Hearings and/or Comment Periods

Chairman Delfs requested a moment of silence for ex-Commissioner James Whitten who passed away earlier this week.

Ms. Hilton reminded the Commissioners that the next meeting is scheduled for Wednesday, June 2nd.

There being no further business to come before the Commission and no public comment, Chairman Delfs adjourned the meeting at 2:05 p.m.

APPROVED:

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Chairman

By

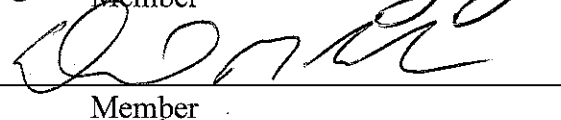
Vice Chairman


By


Member

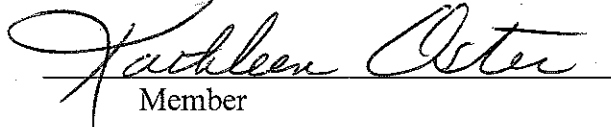
ATTEST:

By


Member


Commission Secretary

By


Member